



## Federal Acquisition Insight

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*Editor: Judy Steele*

*Featuring the Latest Acquisition Workforce News and Events*

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*From the Desk of the Director -- by Gloria Sochon*

This issue brings you a wealth of information on several timely topics:

- First, note the training opportunities offered at our upcoming Federal Acquisition Conference, our Lunchtime Learning Seminars, and FAI Online University.
- We offer advice on how industry can support the government's performance based contracting initiative and guidance available to small businesses on the Americans with Disabilities Act.
- There's news about special programs – nominations for the Committee for Purchase from People Who Are Blind or Severely Disabled's career achievement award, buy-recycled reporting requirements, purchasing energy-efficient standby power devices, and the Federal Environmental Executive's report to the President.
- We also have news on developing initiatives – contract bundling, Section 803, and the Enterprise Software Initiative.

We hope you find this information useful. And be sure to share it with your colleagues.

We welcome any comments and suggestions for articles for publication in *FAI Insight*. If you'd like to submit an article for publication in the newsletter, please contact the Editor, Judy Steele, at (202) 501-4994 or [judy.steele@gsa.gov](mailto:judy.steele@gsa.gov).

***Back-to-Back Lunchtime Learning Seminars on PBSA a Success!***

Over 250 acquisition professionals attended the two Lunchtime Learning Seminars October 24 and November 1, 2002, featuring training on how to use the online “7 Steps to Performance Based Services Acquisition (PBSA) Guide.” Following the release of a recent GAO report (GAO-02-1049) which states that better guidance is needed to meet the PBSA goals set by the President’s Management Agenda, this training was very timely. At the first seminar on October 24, Maureen McKee of the Department of Agriculture did an overview of the Guide and reviewed Step 1: Establish the Team. Julia Wise of GSA’s Office of Acquisition Policy reviewed Step 2: Decide what problem needs solving, and Step 3: Examine private and public sector solutions. On November 1 there were four speakers. Chip Mather, of Acquisition Solutions, Inc. (ASI), the “industry partner” developing the 7 Steps Guide, covered Step 4: Develop a PWS or SOO. Tina Burnette of the Commerce Department reviewed Step 5: Decide how to measure/manage performance. Mike Canales of DoD covered Step 6: Select the right contractor; and Ronne Rogin of the Treasury Department reviewed Step 7: Manage performance. There were a number of good handouts, lively questions, and a lot of information was exchanged. The next Lunchtime Learning Seminar will be held in February. Make it a point to attend!

***Highlights from the NCMA East Coast Education Conference***

GSA and FAI were Gold Sponsors of the NCMA 21<sup>st</sup> Annual East Coast Education Conference, “Winning Connections” held November 14 – 15, 2002 at the Sheraton Premiere, Tyson’s Corner, Virginia. FAI hosted two booths featuring the partnership between FAI and the Defense Acquisition University (DAU). FAI and DAU training courses and services were on display. Both booths were very busy. The conference featured panel discussions on such topics as “Dueling Views of Government Acquisition,” “Changes in the Wind: Acquisition Legislation,” “Sitting at the Grownups’ Table: Increasing the Value of the Procurement Organization,” “Acquisition Trends—I Know Where I’ve been, but Where am I Going?,” “Many Paths, One Goal: Different Contracting Models for Modernization Programs,” “Discussions with a Futurist,” “Newcomer’s Panel.” Key speakers included the Honorable Angela Styles, Administrator for Federal Procurement Policy, the Honorable Steven J. Kelman, Professor of Public Management at Harvard University’s Kennedy School and former Administrator for Federal Procurement Policy, and Professor Steven L. Schooner. Breakout sessions covered a number of topics including Construction Contracting, IT Contracting, Service Contracting and International Contracting. And at the Awards Luncheon a good time was had by all. For more information on upcoming NCMA conferences check out the website at [www.ncmahq.org](http://www.ncmahq.org).

**Update on Contract Bundling**

In March 2002, out of concerns that substantially fewer small businesses receive Federal contracts, the President requested that OMB prepare a strategy for unbundling contracts. The Small Business Reauthorization Act of 1997 defines contract bundling as “consolidating two or more procurement requirements for goods or services previously provided or performed under separate, smaller contracts into a solicitation of offers for a single contract that is unlikely to be suitable for award to a small business concern.” In recent years the number and size of bundled contracts has reached record levels which has resulted not only in fewer small businesses receiving government contracts, but a reduced supplier base. The OFPP working group tasked with developing strategies for unbundling contracts released a report, “Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business” in October 2002.

The working group realized that the strategy for unbundling contracts must function in the atmosphere of a reduced acquisition workforce and must not require the paperwork and labor-intensive system of the past. The strategy must also be fair, efficient and transparent. Their challenge was to strike a balance between operational efficiency and opportunity and fairness to small businesses. They recommended the following actions:

- Ensure accountability of senior agency management for improving contracting opportunities for small business.
- Ensure timely and accurate reporting of contract bundling information through the President’s Management Council.
- Require contract bundling reviews for task and delivery orders under multiple award contract vehicles.
- Require agency review of proposed acquisitions above specified thresholds for unnecessary and unjustified contract bundling.
- Require identification of alternative acquisition strategies for the proposed bundling of contracts above specified thresholds and written justification when alternatives involving less bundling are not used.
- Mitigate the effects of contract bundling by strengthening compliance with subcontracting plans.
- Mitigate the effects of contract bundling by facilitating the development of small business teams and joint ventures.
- Identify best practices for maximizing small business opportunities.
- Dedicate agency Offices of Small and Disadvantaged Business Utilization to the President’s Small Business Agenda.

A copy of the complete report can be found at [www.acqnet.gov](http://www.acqnet.gov).

***How Contractors Can Help Implement PBC – by Ronne Rogin***

For the last few years, Federal agencies have been struggling with the implementation of performance-based contracting (PBC). In FY 2002, the requirement to implement PBC became mandatory. There is a great deal that offerors and potential offerors can do to assist the Government in changing its acquisition culture. One of the first steps an acquisition team must take is to conduct market research. Industry must be willing to share its best business practices, commercial metrics or metrics used on other Federal or state contracts--the types of incentives that would encourage high-quality performance. This is the first opportunity to begin a relationship with the Government acquisition personnel, and we need your willingness to communicate openly. Team-building begins here.

One of the principal benefits of PBC is that vendors compete on solutions. Offerors must step up to the plate and submit, as part of their proposal, a quality assurance plan. Many executive agencies have little experience in this area, so we must rely on contractor expertise. Once reviewed, negotiated and approved, this plan becomes the basis for measuring contractor performance over the life of the contract. Potential offerors must also understand exactly how the government will evaluate their proposals. We are out of the mode of reading resumes and verifying individual credentials – we're looking for certain results to be delivered. We must look at the larger picture, and evaluate how well the offerors understand the instant requirement, how their past performance record looks, and assess the risk(s) involved in acceptance of a particular solution.

Twenty years ago, we used “understanding the requirement” as a very general business management discriminator. Companies submitted information on their management team and their past experience—this was often a marketing pitch. However, now we know that when a vendor has conducted due diligence, i.e., has spent time learning about the organization, its mission, and the desired outcomes, its proposed solution will reveal its understanding of the agency operation and of the performance objectives. The other large discriminator we must use is past performance. The Past Performance Information Retrieval System provides a large database of past performance evaluations (<http://www.ppirs.gov>). The evaluations reveal a vendor's ability to control costs, deliver on time, deliver quality services, and make its customers happy. Should a vendor score high in these areas, then the risk of poor performance or failure should be lower.

PBC requires all of the stakeholders, including potential contractors, to get involved in the process early. Government program managers need a cultural transformation in order to fully embrace the concepts---Contractors, are you ready to assist?

**2003 E.R. "Dick" Alley Career Achievement Award Nominations**

The Committee for Purchase from People Who Are Blind or Severely Disabled is soliciting nominations for the E.R. "Dick" Alley Career Achievement Award. This is the highest award given by the Committee. The award recognizes current Federal employees who have provided extraordinary, sustained support for the Javits-Wagner-O'Day (JWOD) Program and its mission of creating employment opportunities for people who are blind or have other severe disabilities. All individuals employed by the Federal Government are eligible for nomination. Nominations, preferably submitted in electronic form, must be received by January 31, 2003. Nomination instructions and forms, as well as biographies of past Alley Award recipients, can be obtained from the Committee's website at [www.jwod.gov](http://www.jwod.gov) or by contacting Annmarie Hart-Bookbinder of the Committee staff at [abookbinder@jwod.gov](mailto:abookbinder@jwod.gov) or (703) 603-0174.

**Mark the Date! FAC 2003!**

Planning is in full swing for the 2003 Federal Acquisition Conference and Exhibitor Fair (FAC 2003)! This training opportunity will again take place in two locations for your convenience: June 12-13, 2003, at the Sheraton Premiere Hotel in Tyson's Corner, Virginia, and June 17-18, 2003, at the Marriott Hotel in Huntsville, Alabama. Visit the FAC website at [www.fac2003.org](http://www.fac2003.org) for more information and to register online. Be sure to take advantage of this informational and educational event. Last year's was a great success and this one promises to be even better!

**Did You Know...?**

--That FAC 2001-10 was issued November 22, 2002? You can get automatic notices of proposed rules and FAR changes by subscribing to FAR News at [www.acqnet.gov/far](http://www.acqnet.gov/far).

--That GAO issued a report on "Contract Management Guidance Needed for Using Performance-Based Service Contracting"(GAO-02-1049)? You can find this and other GAO reports at [www.gao.gov](http://www.gao.gov).

**Meeting the Buy-Recycled Reporting Requirements -- by John L. Howard, Jr.**

The Office of Federal Procurement Policy (OFPP) must report biennially to Congress on Federal agencies' progress in meeting the buy-recycled requirements of the Resource Conservation and Recovery Act (RCRA). RCRA and Executive Order 13101, "Federal Agency Waste Prevention, Recycling, and Affirmative Procurement," require Federal agencies to purchase Environmental Protection Agency (EPA)-designated products containing recycled materials. Procurement of these products helps to create and sustain markets for the materials we collect in our home and office recycling programs, conserve resources, create jobs, reduce emissions of greenhouse gases, reduce air and water pollution, and increase energy efficiency. These products also often provide performance benefits and reduced costs compared to comparable products made from virgin materials.

The acquisition community has a key role to play in successful implementation of the buy-recycled program, including tracking and reporting. This article summarizes recent changes to the annual RCRA data call, many of which will require participation by acquisition staff.

It is difficult for agencies to report on their purchases of many of these products because there are few electronic means of tracking purchases of individual products made with the government purchase card or through service contracts. Recognizing that it is difficult to track and report on the 54 EPA-designated products, an inter-agency Reporting Workgroup recently created an alternative approach, which OFPP and the Office of the Federal Environmental Executive (OFEE) are now implementing.

The FY 2002 RCRA data call was sent to procurement executives and agency environmental executives in early November, 2002. It is important to note that, because RCRA reporting is the joint responsibility of procurement executives and agency environmental executives, procurement staff should work closely with environmental staff on implementing and reporting on the RCRA and E.O.13101 buy-recycled requirements.

Beginning with the FY 2002 data call, agencies will be required to report on (1) Federal Procurement Data System (FPDS) data, (2) purchases of eight indicator products, (3) management controls, and (4) waste prevention and recycling activities. The first three reporting areas will require information and assistance from each agency's acquisition office.

For FY 2002 and 2003, only the top six purchasing agencies will be required to respond to OFPP and OFEE: Department of Defense, Department of Energy, NASA, GSA, Department of Veterans Affairs, and Department of Transportation. Other agencies can report on a voluntary basis. Beginning with the FY 2004-2005 reporting cycle, however, all agencies will be required to report.

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*(Buy-Recycled, cont).*

FPDS Data. The FY 2002 update to the individual contract action forms (DD 350 and SF 279) requires contracting officers to indicate whether a solicitation requires the use or supply of EPA-designated products, whether the agency specified that recycled content products must be used or supplied, and if not, the price, performance, or availability reason for not buying recycled. Consistent with President Bush's emphasis on tracking performance and improvement, the FY 2002 RCRA data call asks agencies to review their FPDS data to determine the number of contracting actions undertaken, the number of contracting actions for which recycled content products will be acquired, the reasons for not buying recycled content products, and what actions the agency will take to increase compliance after analyzing the FPDS data. Appendix G to the FY 2003 FPDS Guidance contains additional guidance on the RCRA-related data elements.

Indicator Products. Reporting on eight indicator products replaces reporting on agency purchases of all 54 of the EPA-designated products. Many of the eight products are purchased from the central sources of supply, such as GSA and the Defense Logistics Agency (DLA), who will continue to provide data on purchases from their stock programs. Agencies will report their purchases from sources other than GSA or DLA.

Implementing Management Controls. This section of the report has four elements required by RCRA or by E.O. 13101: (1) affirmative procurement policy, (2) training, (3) auditing, and (4) agency goals. For each element, agencies must report their compliance with the statutory and E.O. requirements. This year's data call also provides sample audit questions developed by NASA.

Waste Prevention and Recycling. This section of the data call contains questions similar to those asked in previous years and allows continued tracking of agencies' progress in reducing the amount of waste sent to incineration or landfills.

If you have questions about changes to the FY 2002 RCRA data call, please contact Dana Arnold of OFEE at (202) 564-9319 or Cyndi Vallina of OFPP at (202) 395-4544. Information on the data call can also be found at [www.ofee.gov](http://www.ofee.gov) or [www.acqnet.gov](http://www.acqnet.gov).

**Section 803 Update--by Melissa Rider**

On October 25, 2002, the DAR Council issued a change to the Defense Federal Acquisition Regulation Supplement (DFARS) that changes how orders for services over \$100,000 are placed against multiple award contracts, including Federal Supply Service schedule contracts. The rule implements Section 803 of the National Defense Authorization Act for 2002. Section 803 requires the Contracting Officer (CO) to contact as many schedule holders as practicable that are capable of performing the work AND ensure that at least 3 responses are received, or, alternatively, contact ALL the schedule holders. If the order is placed against multiple award contracts that are not part of the Federal supply schedules program, the CO must contact all awardees that are capable of performing the work and provide them an opportunity to submit a proposal that must be fairly considered for award. Program managers and other requiring offices must assist in determining which contractors are capable of performing the desired work. Training materials that further explain the new rules are posted at: [www.acq.osd.mil/dp](http://www.acq.osd.mil/dp). The information can be accessed via the special interest drop-down box on the homepage, listed under Section 803. For more information contact Melissa Rider at [Melissa.rider@osd.mil](mailto:Melissa.rider@osd.mil), or call (703) 614-3883.

**Enterprise Software Initiative (ESI) -- by Mike Canales**

On October 25, 2002, DoD published a new Enterprise Software Initiative (ESI) rule in the Federal register. ESI, an approved “quick hit” initiative under the Business Initiative Council, thus became the official clearinghouse for all DoD buys of commercial software and services. The DAR Council added new procedures to the DFARS to require DoD customers and contracting officers to make best value purchases using established ESI Enterprise Software Agreements. Authorized ESI users include all Defense components and Defense contractors when authorized by their contracting officer. For more information on ESI, visit the ESI Website at <http://www.don-imit.navy.mil/esi>. For more information, contact Jim Clausen at [James.Clausen@osd.mil](mailto:James.Clausen@osd.mil), or (703) 602-0980, ext 169.



**Implementing E.O. 13221 -- by John Howard, Jr.**

Executive Order (E.O.) 13221, "Energy-Efficient Standby Power Devices," directs Federal agencies to purchase electronic devices, which use minimal power when they go into standby mode. The Department of Energy's Federal Energy Management Program (FEMP) created a list of standby products, which can be found at the following web address: <http://www.eren.doe.gov/femp/procurement>.

To assist agencies in purchasing these products, FEMP developed the following sample solicitation clauses, which may be used in solicitations requiring energy-consuming products or services that require energy-consuming products, such as laundry, food, or printing service contracts:

Example 1. This example includes both E.O. 13221 and E.O. 13123, "Greening the Government Through Efficient Energy Management," to address the requirements to purchase Energy Star or FEMP top 25 percent products and products having an energy-efficient standby mode:

As mandated by purchasing requirements found in E.O. 13221, E.O. 13123, and FAR Part 23.203, \_\_\_\_ (agency name) \_\_\_\_\_ will now require contractors who install or retrofit energy-using products to:

(1) If purchasing from federal supply source [GSA or Defense Logistics Agency (DLA)] or an outside contractor, the agency's procurement officer shall specify, purchase, and/or install any energy using product that meets the criterion for the top 25th percentile established by FEMP and/or ENERGY STAR® and that meets FEMP's criterion for those products that consume standby power.

(2) Clearly identify and record the purchasing of these energy efficient products that comply with ENERGY STAR® and/or FEMP- designated energy efficiency levels.

(3) Verify all contractor claims of energy efficient products by requesting that the contractor provide you with the performance level of the efficiency metric for the product (e.g. EER, SEER, AFUE, COP, HSPF, annual kWh consumption, kWh).

*(Cont.)*

*(Energy efficient clauses, cont.)*

Example 2. This is an example of energy efficiency language used by GSA:

To be in compliance with these directives, GSA will now require contractors having energy-using products to:

- Only use the term "energy efficient" in its GSA product listings if a product meets the criterion established by FEMP and/or ENERGY STAR®.
- Clearly identify energy-using products that comply with ENERGY STAR® and/or FEMP- designated energy efficiency levels.
  - a. For hard copy or catalogued format data submittal, use appropriate symbol to identify products that comply with ENERGY STAR® and FEMP-designated energy efficiency levels. For products covered by both ENERGY STAR® and FEMP, only the ENERGY STAR® symbol should be used. For products not covered by ENERGY STAR®, but covered by FEMP, the FEMP symbol should be used. The appropriate ENERGY STAR® and FEMP symbols are:
  - b. For electronic data submittal, use the "Environmental Attributes" identification features in the SIP toolkit to identify products that comply with ENERGY STAR® and/or FEMP energy efficiency levels.
- If applicable, tag ENERGY STAR®, which refers to the DOE/EPA's ENERGY STAR® labeling program.
- If applicable, tag "EE", which refers to E.O. 13221 FEMP-designated top 25th percentile level.
- In the product description section of SIP, include the performance level of the efficiency metric for the product (e.g. EER, SEER, AFUE, COP, HSPF, annual kWh consumption, kWh).

Example 3. This example is modified from Energy Star's contract language:

When purchasing these (list product types)\_\_\_\_\_, add the following requirements to your specifications to ensure you receive Energy Star® labeled (list product types)\_\_\_\_\_. For additional considerations regarding the purchase of energy efficient (list product types) \_\_\_\_\_, please see the Energy Star® web site, [www.energystar.gov/products](http://www.energystar.gov/products).

For (list product types)\_\_\_\_\_, the (list performance metrics)\_\_\_\_\_ (i.e., Energy Efficiency Ratios (EER)) must be equal to or higher than the (specify levels from the Energy Star web site)\_\_\_\_\_.

### ***Update on FAI Online Course Offerings***

Have you checked out the courses offered on FAI Online lately? If you go to [www.faionline.gov](http://www.faionline.gov) you will see that the number of courses has greatly increased. The courses we currently offer include:

- CON 101
- Competition in Contracting Act (CICA)
- Contracting Orientation
- COR Mentor Course-New Modules
- COR Mentor Program
- COTR Module 1-Orientation
- COTR Module 2-Acquisition
- EEO Block Training
- Ethics Block Training
- GSA 101
- How to take Online Seminars
- HubZone Empowerment Contracting Program (4 modules)
- Information Assurance Block Training
- Javits-Wagner-O-Day (JWOD) Training for Acquisition Professionals
- Market Research
- Negotiations Module
- SBA's Mentor-Protégé Program
- Security Block Training
- Set Asides for Small Businesses
- Small Business Size Standards
- USCG Simplified Acquisition (SAP) Checklist
- Waivers of the Nonmanufacturer Rule

### ***What's New with ADA***

Small businesses looking for assistance implementing the Americans with Disabilities Act (ADA), can now find help from the recently published "ADA Guide for Small Businesses." The 15-page guide published by SBA provides an overview of basic ADA requirements for small businesses that provide goods and services to the public. Guidance is also provided on how to make small business services accessible and how tax credits and deductions may be used to offset specific costs. The guide is available at [www.sba.gov/ada](http://www.sba.gov/ada). Small businesses can also find technical assistance materials and ADA information services, as well as a variety of assistive technology shareware and freeware.

**Federal Energy and Environmental Management Making Strong Progress**

On December 3, 2002, Federal Environmental Executive John Howard sent to President George W. Bush a new report, "Leading by Example: A Report to the President on Federal Energy and Environmental Management (2000-2001)." President Bush has called on the Federal government to lead by example, to be a good neighbor, and to be a good steward. The Council on Environmental Quality, OMB, OFPP and the Federal Environmental Executive led an interagency work group that prepared a new report highlighting the activities and accomplishments of the Federal community in meeting this charge. The group also made recommendations for how the Federal government could improve its environmental stewardship.

According to John Howard, the Federal government is making strong progress in being a good environmental steward. We're more energy efficient, and more systematic about our environmental management. We're emitting fewer greenhouse gas emissions, and spending more on environmentally responsible operations, buildings, and products. The report also includes eighteen recommendations for how we can build on this progress and make even further improvements. President Bush and his Administration will continue to work diligently to achieve each agency's mission by practicing sustainable environmental stewardship. The report highlights several achievements, including:

--More than 180 Federal facilities have developed and are implementing environmental management systems, strategic frameworks for ensuring compliance with environmental requirements, integrating environmental accountability into day-to-day decision making and planning, and urging continual improvement.

--The Federal government's energy intensity (BTUs per square foot) has decreased 23 percent since 1985, saving taxpayers \$1.4 billion.

--From FY 1990 to FY 2001, total carbon emissions from energy used in Federal facilities declined by 2.8 million metric tons of carbon equivalent. This is equal to removing almost 2.1 million cars from the road in a year.

--By using alternative financing mechanisms, agencies in FY 2001 implemented 125 energy projects through which the private sector invested approximately \$477 million, at no cost to taxpayers, for a life-cycle cost savings of \$1.2 billion.

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*(Energy report, cont.)*

--More than 250 Federal buildings have qualified as Energy Star buildings for their high energy efficiency (top 25%).

--From FY 2000 to FY 2001, Federal agencies tripled their purchase of electricity from renewable energy sources, to 632 gigawatt hours, enough to serve 60,000 households for a year.

--From FY 2000 to FY 2001, Federal agencies consumed 6 times more alternative fuels (such as ethanol, biodiesel, and compressed natural gas), from 1.3 to 8.6 million gasoline gallon equivalents.

--In FY 2000, Federal agencies purchased nearly 8,000 new alternative fuel vehicles, bringing the total Federal fleet of such vehicles to 55,000 (we don't have 2001 numbers yet).

--An average of more than 650,000, or approximately 22%, of all Federal employees commute to work other than by single-occupancy vehicles, reducing traffic congestion and air pollution.

--In FY 2001, Federal agencies purchased nearly \$500 million in products containing recycled content. Over the last decade, the Federal government has purchased more than \$3.6 billion of such products. Federal agencies and government contractors now buy more than 50 types of recycled content products designated by the Environmental Protection Agency.

The report also makes 18 recommendations for the Federal government to improve its environmental stewardship through its operations and practices, in the following categories:

- o Building partnerships and enhancing education
- o Improving accountability
- o Budgeting for sustainability
- o Building sustainable infrastructure and
- o Continuing leadership

The report was developed pursuant to E.O.13101, issued by President Clinton, and is to be prepared every two years. This is the second such report, and the first during President Bush's Administration. The full report can be viewed at [www.ofee.gov](http://www.ofee.gov) or [www.acqnet.gov](http://www.acqnet.gov) and will be available in hard copy January 2003. For more information, contact John Howard at (202) 564-9308.



